

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

374611-000212

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Typed or printed name _____

Application Number

10/542,225

Filed

July 14, 2005

First Named Inventor

Kenji KONO

Art Unit

2617

Examiner

Ho, Huy C

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 36,667

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

Troy M. Schmelzer

Typed or printed name

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Telephone number

May 19, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kenji KONO

Serial No. 10/542,225

Confirmation No. 3354

Filed: July 14, 2005

For: Wireless Communication Terminal and
Handoff Determination Method

Art Unit: 2617

Examiner: Ho, Huy C

**REMARKS/ARGUMENTS IN SUPPORT OF PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the final Office Action dated January 20, 2011, and Advisory Action of May 6, 2011, applicant requests a pre-appeal brief review of the final rejections of claims 1-4, 6-10, 12, 14, 15 and 17-20. This request is being filed with a Notice of Appeal and a request for a one month extension of time.

Claim Rejections – 35 USC 102

Claims 1-4, 7-10, 14, 15, 17 and 18 are rejected under 35 USC 102(b) as anticipated by Cuffaro (US 5,999,814). In response, applicant submits that these rejections contain a clear error on the part of the Examiner in that Cuffaro does not disclose each and every element of applicant's claims, and that the rejections should therefore be withdrawn.

Applicant's claim 1 recites a wireless communication terminal comprising:

...a determination section that...changes the criterion of the determination of the handoff if it is determined that the handoff section has performed the predetermined repetition pattern of handoffs.

Each of independent claims 7, 17 and 18 also recite that the criterion for determination of the handoff is changed if the predetermined repetition pattern of handoffs is performed. As described in paragraph 0064 of applicant's published application (US 2006/0052104), for example, "when the C/I values of the two pilot signals are greater than a predetermined value and when occurrence of the idle handoff to be repeatedly effected a predetermined number of times has been detected, the threshold value for determining the idle handoff is changed such that the number of times the idle

handoff arises is reduced, in order to reduce the frequency of occurrence of the idle handoff frequently arising when the C/I values of the two pilot signals contend with each other". That is, in step 104, the threshold value of the idle handoff is changed to a value at which the idle handoff does not arise frequently.

Cuffaro relates to handling oscillating mobile station handoffs between cells in a cellular telecommunication network. Nowhere does Cuffaro disclose that the criterion for determination of the handoff is changed. Step 32 of Cuffaro's FIG. 3 determines whether the signal strength of the MS (which has been classified as oscillating in preceding steps) in the serving cell is above a safe threshold. If the signal strength is above the safe threshold, handoffs are inhibited for a predetermined time period (step 35). If the signal strength is not above the safe threshold, the handoff is allowed (step 33). However, Cuffaro does not disclose that the question asked or threshold applied in step 32 is ever changed. Therefore, although the result of the determination may differ (handoff is or is not allowed), the criteria of the determination does not change. Cuffaro does not disclose anything other than that this is a static criteria that is not changed, and Cuffaro therefore fails to disclose changing the criterion of determination if it is determined that the predetermined repetition pattern of handoffs has been performed, as required by applicant's claims.

The Action further argues at page 4 that criterion changing "is just some rules that it applied for determining of the handoff when it is experiencing such repeating handoffs" and argues (page 5, lines 9-10) that this feature corresponds to applicant's disclosure at paragraphs 0055-0059. Applicant disagrees as changing a criterion of handoff determination is not merely "rules that it applied", but is a change of the rule itself. For example, in applicant's step 104, the criterion itself for determining whether idle handoff is to be performed is changed. That is, as described in paragraph 0060, the threshold value for determining whether idle handoff is to be performed is changed.

The Advisory Action of May 6, 2011, in response to these arguments and citing col. 2, lines 35-65; col. 3, line 58 to col. 4, line 46; and col. 6, lines 40-67, asserts that Cuffaro teaches that:

If the measured signals are below a threshold value, a regular handoff is performed. If the measured signals are above the threshold value, other factors are taken into considerations such as time period values, i.e., inter handoff time and oscillation time, which indicate how quickly the handoff being oscillating between time, and after all the determinations and decisions have been made based on these factors, i.e., signals strengths and the oscillations times, and as a result, prevention of the oscillating handoff is addressed and performed.

First, applicant notes that this is a mischaracterization of Cuffaro. As described in the passages cited by the Action and as is clearly shown in the process flow of FIGS. 2-3, Cuffaro first determines whether an MS is exhibiting an oscillating handoff pattern by comparing an inter-handoff

time period to a first threshold value (FIG. 2A; step 15) and comparing a total oscillation time period to a second threshold value (FIG. 2B; step 24). If the MS is classified as oscillating (FIG. 2B; step 26), it is then determined whether the MS's signal strength in the serving cell is above a safe threshold (FIG. 3; step 32), and if so, handoffs are inhibited (step 35). The suggestion by the Advisory Action that "other factors are taken into consideration" by Cuffaro if the measured signal is above a threshold value is both incorrect (the "other factors" such as inter-hand off time and total oscillation time are considered before the comparison of the signal strength to a safe threshold) and an unwarranted implication that there is some change in criteria. There is no disclosure anywhere in Cuffaro that the criteria applied in any of the steps of FIGS. 2-3 is ever changed. That is, Cuffaro does not disclose changing the criteria either for determining that the MS is oscillating (e.g. the thresholds in steps 15 and 24) or for determining whether handoff should be allowed or inhibited (e.g. the threshold in step 32).

Since Cuffaro does not disclose each and every feature of claims 1, 7, 17 and 18, Cuffaro cannot anticipate those claims, and their rejections under 35 USC 102 should be withdrawn.

Claims 2-4, 8-10, 14 and 15 depend from claims 1 and 7 and are therefore not anticipated for the same reasons. Moreover, dependent claims 3 and 9 require that "when qualities of the two pilot signals acquired repeatedly are equal to or greater than a predetermined value, the criterion of the determination of the handoff is changed". The Action asserts that Cuffaro's determination of whether a measured signal strength is above a safe threshold corresponds to this feature. In addition to the fact that the Cuffaro never changes the criterion for a handoff, as described above, applicant further notes that Cuffaro compares the strength of one signal in a serving cell to the threshold, whereas claims 3 and 9 require that the qualities of two pilot signals are compared to a threshold. Thus, for this reason, in addition to those set forth for base claims 1 and 7, claims 3 and 9 are not anticipated by Cuffaro.

Claim Rejections – 35 USC 103

Claims 6 and 12 are rejected under 35 USC 103(a) as obvious over Cuffaro in view of Yun (US 7,016,323). However, claims 6 and 12 depend from claims 1 and 7 and are allowable for the same reasons. Yun relates to transmitting forward link data to a handoff mobile station in a CDMA communication system, and does not remedy the deficiencies of Cuffaro with respect to claims 1 and 7. The rejections of claims 6 and 12 under 35 USC 103(a) should therefore be withdrawn.

Appl. No. 10/542,225
Notice of Appeal dated May 19, 2011
Reply to final Office Action of January 20, 2011

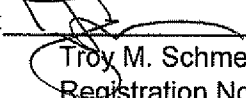
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Customer No. 73230

For these reasons, this application is believed to be in condition for allowance.

Respectfully submitted,

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Date: May 19, 2011

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